

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: February 1-2, 2006

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Information Item

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Ref: **REGULATION BY THE STATE WATER QUALITY CONTROL BOARD FOR
DISCHARGE IN AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE**

SUMMARY:

At the September 2005 California Transportation Commission (Commission) meeting, the Commission was asked to comment on regulations by the State Water Resources Control Board requiring zero pollutants in storm water discharge areas of Special Biological Significance along the California Coast. The Commission asked the Department to make a formal presentation about what they are doing to implement this requirement.

BACKGROUND:

In 1974, the California Ocean Plan (COP) designated thirty-four (34) marine-managed locations as Areas of Special Biological Significance (ASBS). Discharges from point sources (e.g. industrial, treated sanitary) into an ASBS location became prohibited, while discharges from non-point sources (e.g. storm water, urban runoff) are to be controlled to the extent practicable.

In 1978, the COP, applicable to ASBS, remains essentially unchanged, except for the addition of a footnote stating that non-point sources of waste discharges are subject to various chapters of the COP, specifically Table B in Chapter 4. Table B contains contaminant concentration thresholds.

In 1983, the COP was revised to prohibit all waste discharges to ASBS locations. Furthermore, the COP states that “*Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas.*” The absolute prohibition of all waste doesn’t allow for any latitude in the concentration of pollutants.

In November 2000, the Department received Cease and Desist Order from Regional Water Quality Control Board for discharges into Crystal Cove, which is part of an ASBS location in Orange County. The Department has spent approximately \$3 million in installing treatment for the location. It is anticipated that another \$3 million will be spent for addressing this ASBS location.

On October 18, 2004, the Department received a letter from State Water Resources Control Board (SWRCB) that the Department must cease discharging to ASBS locations or seek an exception. The letter identifies the Department as being responsible for discharges into ten (10) ASBS locations.

There are 57 miles of State Highways 1 and 101 that lie alongside the ten (10) ASBS locations, with 184 drainage systems discharging highway runoff to the ASBS locations (85 direct discharges).

Exceptions can be granted for a period of five (5) years, but SWRCB doesn't want perpetual exceptions to be granted, as dischargers should be working toward compliance with ASBS prohibition. Compliance with an Exception would involve in-ocean biological monitoring, as well as monitoring of ocean water quality and highway storm water runoff. Additional monitoring for identifying "natural water quality" may become necessary too. Natural water quality is the standard for ensuring wastes are not in the discharge. Natural water quality has been not defined, but would be developed as part of the Exception.

Compliance with the ASBS prohibition necessitates pumping storm water runoff to adjacent basins or discharge points outside the ASBS. Construction of structural treatment facilities may also become necessary. Initial estimates indicate that capital cost for installing the necessary infrastructure (e.g. drainage inlets, subsurface piping, pumping stations, power supply, etc.) may exceed \$500 million. However, compliance can never be truly achieved, as storm drainage facilities must be designed on the basis of a designated storm size, thus any storm event in excess of the designated storm size would result in discharge of storm water containing some concentration of pollutants.